

CHARTER OF THE CITY OF WARR ACRES, OKLAHOMA

PREAMBLE

We, the people of the City of Warr Acres, Oklahoma, exercising the powers of home rule granted to us by the constitution and laws of the State of Oklahoma, in order to provide for more efficient, adequate and economical government, do hereby ordain, ratify and establish this Charter of the City of Warr Acres, Oklahoma.

ARTICLE 1.

INCORPORATION, FORM OF GOVERNMENT, POWERS

Incorporation; Annexation; Merging:

Section 1-1. The City of Warr Acres, Oklahoma, within the corporate limits as now established or as hereafter may be established, shall continue to be a municipal body politic and corporate in perpetuity under the name of the "City of Warr Acres, Oklahoma". It shall succeed to and possess all the property, rights, privileges, franchises, powers and immunities now belonging to the corporation known as the City of Warr Acres, Oklahoma; and shall be liable for all debts and other obligations for which the corporation is legally bound at the time this charter goes into effect.

The City of Warr Acres, Oklahoma, may not be annexed by any other city or be merged into a combined county-city government or other governmental unit unless a majority of the qualified electors of the City of Warr Acres voting on the question at an election approve such annexation or merging.

Form Of Government:

Section 1-2. The municipal government provided by this chapter shall be known as a "mayor-council government". All powers of the city shall be exercised in the manner prescribed by this charter, or, if the manner is not thus prescribed, then in such manner as the council may prescribe by ordinance.

Powers Of The City:

Section 1-3. The city shall have all powers, functions, rights, privileges, franchises and immunities granted to cities by the state constitution and law, and all the implied powers necessary to carry into execution all the powers granted. Except as prohibited by the state constitution or law, the city shall have all municipal powers, functions, rights, privileges, franchises and immunities of every name and nature whatsoever.

The city shall have power to adopt a corporate seal and to alter it at pleasure, to sue and to be sued, and to make contracts. It shall have power to acquire property within or without its corporate limits for any city purpose, including public utilities, works and ways, in fee simple or any lesser interest or estate by purchase,

gift, devise lease, condemnation or other legal means; and to hold, maintain, improve, enlarge, manage, control, operate, lease, sell, convey or otherwise dispose of, such property as its interests may require, including public utilities, works and ways. It shall have power to incur indebtedness and to issue bonds within the limitations prescribed by the state constitution. It shall have power to accept and administer federal and state grants-in-aid and to do everything necessary to accomplish the purpose, or purposes for which such grants maybe made. It shall have the power to ordain and to enforce local legislation for the proper organization and functioning of the city government, for the preservation and enforcement of good government and order, for the protection of health, life, morals and property, for the prevention, summary abatement and removal of nuisances, and otherwise for the promotion of the common welfare. It shall have power to grant, extend and renew franchises in accordance with the state constitution.

The enumeration or mention of particular powers by this charter shall not be deemed to be exclusive or limiting; and in addition to the powers enumerated or mentioned herein or implied hereby, the city shall have all powers which, under the state constitution and law, it would be competent for this charter specifically to enumerate or mention.

Provisions of state law relating to matters which may be regulated by cities operating under charters, shall be in effect only insofar as they are applicable and are not superseded by this charter or by ordinance.

ARTICLE 2.

MAYOR AND COUNCIL

Mayor And Councilmen; Number, Qualifications:

Section 2-1. There shall be a council of nine members, which shall consist of the mayor as ex officio councilman at large and two councilmen from each of the four wards of the city as the wards are now constituted or as they may hereafter be constituted by ordinance. Only qualified electors of the city who have resided in the city for at least one year shall be qualified for the office of mayor. Only qualified electors of the city who have resided in the city for at least one year and who reside in the respective wards from which they are elected or appointed to fill vacancies, shall be qualified for the offices of councilmen from the wards. Removal of the mayor from the city or of a councilman from the ward from which he was elected or appointed to fill a vacancy shall terminate his tenure of office, but a change in ward boundaries shall not prohibit a councilman from completing his term. A councilman from a ward may not hold any administrative office or position in the city government; provided that nothing in this charter shall prohibit councilmen who are already volunteer firemen when elected or appointed from continuing to serve as volunteer firemen and being paid as such at the same rate at which they were paid prior to their election or appointment to fill vacancies.

Mayor And Vice Mayor:

Section 2-2. The mayor shall preside at meetings of the council and shall certify to the correct enrollment of all ordinances and resolutions passed by it. As councilman at large, he shall have all powers, rights, privileges, duties and responsibilities of councilmen, including the right to vote on questions.

At the first meeting after the time prescribed for the beginning of the terms of newly elected councilmen or as soon thereafter as practicable, the council shall elect one of its members vice mayor, who shall serve as such until the next such first meeting. The vice mayor shall act as mayor during the absence or disability of the mayor, or, if a vacancy occur in the office of mayor, until the vacancy is filled. If the office of vice mayor becomes vacant, the council shall elect from its membership another vice mayor for completion of the unexpired term.

Mayor And Councilmen; Compensation:

Section 2-3. The mayor shall be paid such compensation as the council may determine by ordinance. Councilmen from the wards shall be paid no compensation as councilmen nor for any other service rendered the city, but they and the mayor may be reimbursed for expenses incurred in the discharge of their official duties.

Council; Powers:

Section 2-4. Except as otherwise provided in this charter, all powers of the city, including the determination of all matters of policy, shall be vested in the council. Without limitation of the foregoing, the council shall have power, subject to the state constitution and law and this charter:

- (1) By ordinance to enact municipal legislation;
- (2) To raise revenue and make appropriations, and to regulate bond elections, the issuance of bonds, sinking funds, the refunding of indebtedness, salaries and wages, and all other fiscal affairs of the city;
- (3) To inquire into the conduct of any office, department or agency of the city, and investigate municipal affairs; provided that, when making such an inquiry or investigation, the council may elect one of its members temporary president to preside during such time, and may elect a temporary clerk of the council to keep the journal and otherwise serve as clerical officer of the council during such time;
- (4) To subpoena officers and employees of the city and other persons to testify and to produce documents and other effects as evidence in matters under consideration by the council;
- (5) To appoint or elect and remove its own subordinates, the members of the personnel board, the members of the planning commission, the members of the board of adjustment, and other quasi-legislative, quasi-judicial or advisory officers and authorities, now or when and if established, or to prescribe the method of appointing or electing and removing them;
- (6) To regulate elections, the initiative and referendum, and recall;
- (7) To regulate the organization, powers, duties and functions of the municipal court and of the minor violations bureau, when and if established;

(8) To create, change and abolish all offices, departments and agencies of the city government other than the offices, departments and agencies created by this charter; and to assign additional powers, duties and functions to offices, departments and agencies created by this charter;

(9) With a recommendation from the mayor and a majority vote of all members of the council, to appoint, suspend without pay, demote, or remove from office, all directors or heads of administrative departments;

(10) Without a recommendation from the mayor and with a three-fourths vote of all members of the council, to remove from office all directors or heads of administrative departments.

City Clerk To Be Clerical Officer Of Council:

Section 2-5. The city clerk, hereinafter provided for, shall also serve as clerical officer of the council. He shall keep the journal of its proceedings, and shall enroll in a book or books kept for the purpose all ordinances and resolutions passed by it; shall be custodian of such documents, records and archives as may be provided by applicable law or ordinance; shall be custodian of the seal of the city; and shall attest, and affix the seal to, documents when required in accordance with applicable law or ordinance.

Council; Meetings:

Section 2-6. The council shall hold at least one regular meeting every month, at such time as it may prescribe by ordinance or otherwise. The mayor or any five councilmen may call special meetings. All meetings of the council shall be open to the public, and the journal of its proceedings shall be open to public inspection. However, the council shall be permitted to enter into executive session during regular, special, or emergency meetings, provided the proposed executive session is held in accordance with the provisions set forth in the Oklahoma Open Meeting Act, 25 O.S. Supp. 1994, subsection 307.

Mayor And Councilmen; Absences To Terminate Membership:

Section 2-7. If the mayor or any councilman shall be absent from more than one-half of all the meetings of the council, regular and special, held within any period of four consecutive calendar months, he shall thereupon cease to hold office.

Mayor And Councilmen; Removal:

Section 2-8. The mayor or any councilman may be removed from office for any cause specified by applicable state law for the removal of officers, and by the method or methods prescribed thereby, and by recall as provided in this charter.

Mayor And Council; Vacancies:

Section 2-9. The council, by vote of a majority of all its members, shall fill a vacancy in the office of mayor and other vacancies in its own membership for the unexpired terms or until successors are elected and take office as provided in this section. If a vacancy occurs before the beginning of a regular filing period for candidates

for councilmen, and the unexpired term extends beyond 7:30 o'clock P.M. on the next first Monday in May, then a mayor or councilman for that place shall be elected at the elections of that year to serve the rest of the unexpired term beginning at 7:30 o'clock P.M. on said first Monday in May.

Council; Quorum, Rules, Yeas And Nays:

Section 2-10. A majority of all of the members of the council shall constitute a quorum, but a smaller number may adjourn from day to day or from time to time. The council may determine its own rules. On the demand of any member, the vote on any question shall be by yeas and nays, and shall be entered in the journal.

Ordinances; Enacting Clause:

Section 2-11. The enacting clause of all ordinances passed by the council shall be, "Be it ordained by Council of the City of Warr Acres, Oklahoma", and of all ordinances proposed by the voters under their power of initiative, "Be it ordained by the people of the City of Warr Acres, Oklahoma".

Ordinances; Passage, When In Effect:

Section 2-12. Every proposed ordinance shall be in writing, and a vote of a majority of all the councilmen shall be required for its passage. The vote on final passage of every ordinance shall be by yeas and nays, and shall be entered in the journal. The mayor shall have no power of veto. Within ten days after its passage, every ordinance except an emergency ordinance, shall be published in full or by number and title in a newspaper of general circulation within the city. Every ordinance except an emergency ordinance, so published, shall become effective thirty days after its final passage unless it specifies a later time; provided that a franchise for a public utility shall not go into effect until the ordinance granting it has been published in full in a newspaper of general circulation within the city and has been approved at an election by a vote of a majority of the qualified electors voting on the question.

Ordinances; Emergency:

Section 2-13. An emergency ordinance is an ordinance which in the judgment of the council is necessary for the immediate preservation of peace, health or safety, and which should become effective prior to the time when an ordinary ordinance would become effective. Every such ordinance shall contain, as a part of its title, the words, "and declaring an emergency"; and in a separate section, herein called the emergency section, shall declare the emergency. An affirmative vote of at least two-thirds of all the councilmen shall be required for the passage of an emergency ordinance; which vote shall be by yeas and nays, and shall be entered in the journal. An emergency ordinance shall take effect upon passage unless it specifies a later time.

Ordinances; Adoption By Reference:

Section 2-14. The council by ordinance may adopt by reference codes, ordinances, standards and regulations relating to building, plumbing, electrical installations, milk and milk products, and other matters which it has power to regulate otherwise. Such code, ordinance, standard or regulation so adopted need not be enrolled in the book of ordinances; but a copy shall be filed and kept in the office of the city clerk. The city clerk shall

keep copies of all such codes, ordinances, standards and regulations in force for distribution or sale at their approximate cost.

Ordinances; Codification:

Section 2-15. The ordinances of the city shall be codified and published in book or pamphlet form at least every ten years unless the council, by use of a loose-leaf system, provides for keeping the code up-to-date. Titles, enacting clauses and emergency sections may be omitted from the code; and temporary and special ordinances and parts of ordinances may be omitted. Permanent general ordinances and parts of ordinances which are to be repealed by the code, shall be omitted from the code. The ordinances and parts of ordinances included in the code may be revised, rearranged and reorganized; and the code may contain new matter, provisions of the state constitution and law applicable to the city and this charter. A copy of the published code shall be filed in the office of the city clerk after the council adopts the code by ordinance, but the code need not be enrolled in the book of ordinances.

Initiative And Referendum:

Section 2-16. The powers of the initiative and referendum are reserved to the people of the city. In the exercise of these powers, the requirements of the state constitution and law shall be observed.

ARTICLE 3.

MAYOR AND ADMINISTRATIVE DEPARTMENTS

Mayor To Be Chief Executive Officer; Powers And Duties:

Section 3-1. The mayor shall be chief executive officer and head of the administrative branch of the city government. He shall execute the laws and ordinances, and administer the government of the city. He shall be recognized as the head of the city government for all ceremonial purposes and by the governor for purposes of military law. He shall:

- (1) With the approval of a majority of the council, appoint, suspend without pay, demote, or remove from office, all directors or heads of administrative departments;
- (2) Without the approval of the council and when deemed necessary for the good of the city, appoint, layoff, suspend, demote, or remove from office all other administrative officers and employees of the city, except as the mayor or the council, by ordinance or by charter, may authorize the director or head of an administrative department to appoint, layoff, suspend, demote, or remove subordinates in such department. The council, by ordinance or personnel rules, may authorize the mayor to make designated appointments without council approval;
- (3) Supervise and control, directly or indirectly, all administrative departments, agencies, officers and employees;

(4) Prepare a budget annually and submit it to the council, be responsible for the administration of the budget after it goes into effect, and recommend to the council any changes in the budget which he deems desirable;

(5) Submit to the council a report as of the end of the fiscal year on the finances and administrative activities of the city for the preceding year;

(6) Keep the council advised of the financial condition and future needs of the city, and make such recommendations to the council on matters of policy and other matters as may seem to him desirable;

(7) Grant pardons for violations of the charter and ordinances, including the remission of fines and costs, upon recommendation of the council;

(8) Have such other powers, duties and functions as this charter may prescribe, and such powers, duties and functions consistent with this charter as the council may prescribe.

Administrative Department, Offices And Agencies:

Section 3-2. There shall be a department of finance, a department of law headed by a city attorney, and such other administrative departments, offices and agencies as this charter establishes and as the council may establish.

ARTICLE 4.

DEPARTMENT OF FINANCE, FISCAL AFFAIRS

City Clerk; Office Created, Duties:

Section 4-1. There shall be a city clerk, who shall be an officer of the city appointed by the mayor with approval of the council for an indefinite term, and who shall be head of the department of finance. Except as the council provides otherwise by ordinance, the city clerk shall collect or receive revenue and other money for the city, shall deposit the same with the city treasurer or for the city treasurer in an account or accounts maintained by the city treasurer in a depository or depositories, and shall maintain a general accounting system for the city government. He shall have such other powers, duties and functions as may be prescribed by the charter, by applicable law, or by ordinance.

City Treasurer; Office Created, Duties:

Section 4-2. Within the department of finance, there shall be a city treasurer, who shall be an officer of the city appointed by the mayor with approval of the council for an indefinite term; provided also that the same person may be appointed both city clerk and city treasurer, and that the council by ordinance may provide that the city clerk shall be ex officio city treasurer and that an acting city clerk shall be ex officio acting city treasurer. Subject to such regulations as the council may prescribe, the city treasurer shall deposit funds received for the city in such depositories as the council may designate. He shall have such other powers,

duties and functions as may be prescribed by the charter, by applicable law, or by ordinance.

Purchases And Sales:

Section 4-3. The mayor, subject to any regulations which the council may prescribe, shall contract for and purchase, or issue purchase authorizations for, all supplies, materials and equipment for the offices, departments and agencies of the city government. Every such contract or purchase exceeding an amount to be established by ordinance, shall require the prior approval of the council. The mayor also may transfer to or between offices, departments and agencies, or sell, surplus or obsolete supplies, materials and equipment, subject to such regulations as the council may prescribe.

Before the purchase of, or contract for, any supplies, materials or equipment, or the sale of any surplus or obsolete supplies, materials or equipment, ample opportunity for competitive bidding, under such regulations, and with such exceptions, as the council may prescribe, shall be given; but the council shall not except a particular contract, purchase or sale from the requirement of competitive bidding.

The council by ordinance may transfer some or all of the power granted to the mayor by this section to an administrative officer subordinate to the mayor. (1976 Code)

Sale Of Property Valued At More Than \$350,000.00:

Section 4-4. The sale of any city property, real or personal, including public utilities, the value of which is more than \$350,000.00, shall be made only (1) by authority of an affirmative vote of a majority of the qualified electors of the city who vote on the question of approving or authorizing the sale at an election, or (2) by authority of a special nonemergency ordinance. Such ordinance shall be published in full in a newspaper of general circulation within the city within ten days after its passage, and shall include a section reading substantially as follows: "Section --. This ordinance shall be referred to a vote of the electors of the city if a legal and sufficient referendum petition is properly filed within thirty days after its passage; otherwise it shall go into effect thirty days after its passage." (Res. 412, (Exh. 1), 2005)

Public Improvements:

Section 4-5. Public improvements may be made by the city government itself or by contract. The council shall award all contracts for such improvements; provided that the council may authorize the mayor to award such contracts not exceeding an amount to be determined by the council and subject to such regulations as the council may prescribe. Every contract for public improvements of more than \$7,500 shall be awarded to the lowest and best responsible bidder after such notice and opportunity for competitive bidding as the council may prescribe. All bids may be rejected, and further notice and opportunity for competitive bidding may be given.

Conflict Of Interests:

Section 4-6. Neither the mayor nor any councilman shall sell or barter anything to the city or to a contractor supplying the city; or make any contract with the city; or purchase anything from the city other than those

things which the city offers generally to the public (as for example, utility services), and then only on the same terms as are offered to the public. Any such officer violating this section, upon conviction thereof, shall thereby forfeit his office. Any violation of this section, with the knowledge, expressed or implied, of the person or corporation contracting with the city, shall render the contract voidable by the mayor or the council.

The council by ordinance or personnel rules may further regulate conflict of interests and ethics of officers and employees of the city.

Fiscal Year:

Section 4-7. The fiscal year of the city government shall begin on the January 1 and shall end on December 31 of every calendar year.(amd. 2009)

Independent Annual Audit:

Section 4-8. The council shall designate a certified public accountant or accountants who shall make an independent audit of the accounts and evidences of financial transactions of the department of finance and of all other departments, offices and agencies keeping separate or subordinate accounts or making financial transactions, as of the end of every fiscal year at least, and who shall report to the council and to the mayor. The mayor shall neither suggest or recommend the accountant or accountants, nor shall he have any supervision or control thereof.

ARTICLE 5.

MUNICIPAL COURT

Municipal Court:

Section 5-1. There shall be a municipal judge, who shall be an officer of the city appointed by the mayor with approval of the council for an indefinite term. Only the council, by a vote of a majority of all its members, shall have power to suspend or remove the municipal judge or an acting municipal judge. The municipal judge shall have original jurisdiction to hear and determine all cases involving offenses against the charter and ordinances of the city; provided that the council by ordinance may create a minor violations bureau with authority to dispose of cases arising out of designated minor violations, such as minor traffic and parking violations, when the accused waives his right to be heard in court, pleads guilty, and pays fines and costs. The municipal judge shall keep a record of all proceedings of the municipal court, of the disposition of all cases, and of all fines and other money collected. The municipal judge may issue warrants and subpoenas, administer oaths and affirmations, make and enforce all proper orders, rules and judgments, and punish for contempt.

ARTICLE 6.

OFFICERS AND EMPLOYEES

Merit System Appointments, Removals, Etc.:

Section 6-1. A merit system is hereby established for personnel in the city service. Appointments and promotions in the service of the city shall be made solely on the basis of merit and fitness; and removals, demotions, suspensions and layoffs shall be made solely for the good of the service. The council, consistently with this charter, by ordinance or personnel rules, may regulate personnel matters and provide for proper personnel administration.

Classified And Unclassified Services:

Section 6-2. All officers and employees of the city shall be divided into the classified and the unclassified service.

(1) The following shall constitute the unclassified service:

(a) The mayor and councilmen, the municipal judge, one administrative assistant to the mayor if any, and one secretary of the mayor if any;

(b) Members and secretaries of boards, commissions and other plural authorities;

(c) All personnel who serve without compensation;

(d) All temporary personnel except such as may be placed in the classified service by ordinance or personnel rules.

(2) All other officers and employees shall be in the classified service.

(3) Nothing herein shall prohibit including unclassified personnel in the classification system.

Personnel Board Created:

Section 6-3. There shall be a personnel board consisting of three members elected by the council, without nomination or recommendation by the mayor, for overlapping six year terms, the term of one member beginning July 1 in every odd-numbered year. The council shall elect the three original members so that the term of one will expire at that time in each of the first three succeeding odd-numbered years. A member may not hold any other office or position in the city government. The council, by a vote of a majority of all its members, after adequate opportunity for a public hearing, may remove a member for the good of the service; and the vote shall be by yeas and nays, and shall be entered in the journal. The council shall fill vacancies for unexpired terms. Members shall serve without compensation unless the council provides otherwise.

At the time prescribed for the beginning of the term of a newly elected member or as soon thereafter as practicable, the board shall elect a chairman, a vice chairman and a secretary; and the secretary need not be

a member of the board. The board shall determine the time and place of its regular meetings, and the chairman or two members may call special meetings.

The personnel board shall have power to subpoena officers and employees of the city and other persons to testify and to produce documents and other effects as evidence.

Removal, Etc., Of Officers And Employees:

Section 6-4. The mayor may:

(1) With the approval of a majority of the council, suspend without pay, demote, or remove from office, all directors or heads of administrative departments;

(2) Without the approval of the council and when deemed necessary for the good of the city, layoff, suspend, demote, or remove from office all other administrative officers and employees of the city, except as the mayor or the council, by ordinance or by charter, may authorize the director or head of an administrative department to layoff, suspend, demote, or remove subordinates in such department.

The council may, with a three-fourths vote of all members of the council, remove from office all directors or heads of administrative departments. Provided, that the municipal judge, or an acting municipal judge may be suspended or removed only as provided for in Section 5-1 of this charter.

Removal, Etc.; Hearing Before The Personnel Board:

Section 6-5. The mayor or any other authority who lays off, suspends without pay for more than ten days, demotes or removes any regular (that is, nontemporary) officer or employee in the classified service after a probationary period of six months, shall, at that time or within two days thereafter, deliver, or have delivered, or mail by registered, certified or similar special mail, to the officer or employee a written statement of the cause or causes for the layoff, suspension, demotion or removal.

Such officer or employee may appeal in writing to the personnel board. The appeal must be filed with the secretary of the board, or with the city clerk for transmittal to the board, within ten (10) days after receipt of notice of the layoff, suspension, demotion or removal (which appeal may thus be filed either before or after the time of effectiveness of the layoff, suspension, demotion or removal). As soon as practicable thereafter, the board shall hold a public hearing on the appeal, or give an adequate opportunity therefor, and shall report in writing its findings and recommendations, in cases of subordinates of the mayor, to the mayor, and in other cases to the respective authorities having power of removal; and the mayor or other authority having power of removal shall then make a final decision in writing regarding the appellant's layoff, suspension, demotion or removal, as the case may be; provided that, if the board finds that the layoff, suspension, demotion or removal was made for a political reason or reasons or for any other reason or reasons than the good of the service, it shall veto the layoff, suspension, demotion or removal, and the action by the mayor or other authority shall be nullified thereby.

Feminine Gender:

Section 6-6. When the masculine gender is used in the charter, it shall also mean the feminine unless the masculine alone is clearly indicated.

Qualifications Of Officers And Employees:

Section 6-7. Officers and employees of the city shall have the qualifications prescribed by this charter and such additional qualifications as the council may prescribe; but the council shall not prescribe additional qualifications for mayor and councilmen.

Nepotism:

Section 6-8. Neither the mayor, the council nor any other authority of the city government, may appoint or elect any person related to the mayor, any councilman, or to himself, or, in the case of a plural authority, to one of its members, by affinity or consanguinity within the third degree, to any office or position of profit in the city government; but this shall not prohibit an officer or employee from continuing in the service of the city.

Holding More Than One Office:

Section 6-9. Except as may be otherwise provided by this charter or by ordinance, the same person may hold more than one office in the city government. The mayor may hold more than one such office, through appointment by himself, by the council or by other city authority having power to fill the particular office, subject to any regulations which the council may make by ordinance; but he may not receive compensation for service in such other offices. Also the council by ordinance may provide that the mayor shall hold ex officio designated administrative offices subordinate to the mayor as well as other designated compatible city offices, notwithstanding any other provision of this charter.

Official Bonds:

Section 6-10. The mayor, the city clerk, the city treasurer and such other officers and employees as the council may designate, before entering upon their duties, shall provide bonds for the faithful performance of their respective duties, payable to the city, in such form and in such amounts as the council may prescribe, with a surety company authorized to operate within the state. The city shall pay the premiums on such bonds.

Oath Or Affirmation Of Office:

Section 6-11. Every officer of the city, before entering upon the duties of his office, shall take and subscribe to the oath or affirmation of office prescribed by the state constitution. The oath or affirmation shall be filed and kept in the city clerk's office.

Who May Administer Oath And Affirmations:

Section 6-12. All officers authorized by federal or state law, the mayor, the city clerk, the municipal judge, the chairman of the personnel board, and such other officers as the council may authorize, may administer oaths and affirmations in any matter pertaining to the affairs and government of the city.

Acting Officers And Employees; Temporary Appointments Made By The Mayor:

Section 6-13. The mayor or other appointing or electing authority who may appoint or elect the successor of an officer or employee, may appoint or elect a person to act during the temporary absence, disability, leave, or suspension of such officer or employee, or, in case of a vacancy, until a successor is appointed or elected and qualifies, unless the council provides by ordinance that a particular superior or subordinate of such officer or employee shall act. The council by ordinance may provide for a deputy to act in such cases.

No such temporary appointments or other temporary appointments made by the mayor shall require the approval of the council, but the council by ordinance or personnel rules may limit the time which temporary appointees may serve, and the council may remove any temporary officer or employee appointed by the mayor, at any time, when a regular appointment to the particular office or position by the mayor requires approval of the council.

Regular Appointive Officers And Employees; Term:

Section 6-14. All regular (that is, nontemporary) appointive officers and employees of the city except members and secretaries of boards, commissions and other plural authorities, shall serve for indefinite terms.

Officers To Continue Until Successors Are Elected Or Appointed And Qualify:

Section 6-15. Every officer who is elected or appointed for a term ending at a definite time, shall continue to serve thereafter until his successor is elected or appointed and qualifies unless his services are sooner terminated by resignation, removal, disqualification, death, abolition of the office or other legal manner.

Political Activity Of Officers And Employees:

Section 6-16. Officers and employees of the city may attend or express their views at council meetings or any other public meetings of city boards, commissions, or committees.

Any officer or employee of the city may actively participate in partisan or nonpartisan political activities, including recall petitions, provided the political activity in which the employee participates shall be exercised only during off-duty hours and while not in uniform.

No officer or employee of the city may work for or against or attempt to influence the recall of the mayor or any councilman, provided that this shall not prohibit the ordinary exercise of one's right to express their opinions and to vote.

Any officer or employee who violates these provisions shall be removed from office or position either by the

authority normally having that power, or, after adequate opportunity for a public hearing, by the personnel board, and shall not be entitled to hold any office or position in the city for a period of two years thereafter. Any registered qualified elector of the city may bring an alleged violation of these provisions before the personnel board for consideration and determination by filing a sworn complaint charging the officer or employee with such violation, and depositing \$10 with the city clerk to apply against costs, in case the accused is not found guilty. If found guilty, the money deposited shall be returned to the complainant.

City employees may not file as a candidate for political office while employed by the city.

Federal statutes restricting the political activities of certain city employees shall supersede the provisions contained herein.

ARTICLE 7.

ELECTIONS

Mayor And Councilmen Elected For Two-Year Terms; When Terms Begin:

Section 7-1. At the elections in every odd-numbered year, a mayor shall be elected at large, and a councilman shall be elected from and by each ward of the city. At the elections in every even-numbered year, a councilman shall be elected from and by each ward of the city. The mayor and all councilmen shall serve for terms of two years.

The terms of office of the mayor and councilmen to begin at 7:00 o'clock P.M. on the first Tuesday following certification of their election. If the mayor-elect or a councilman-elect fails to qualify within one month thereafter, his office shall become vacant; and the council shall fill the vacancy. (Res. 327, 1999)

Nonpartisan Elections; Secret Ballot; Voting Machines:

Section 7-2. Both the primary and the general election shall be nonpartisan; and no party designation or emblem shall be placed on the ballots. Elections, including special elections, shall be by secret ballot. Nothing in this charter shall prohibit the use of mechanical or other devices for voting or counting the votes.

Primary Election; Filing:

Section 7-3. Any qualified person may have his name placed on the ballot for the primary election as a candidate for mayor or councilman from the ward in which he resides by filing, not more than one month and at least two weeks prior to the primary election, with the city clerk, a sworn statement of his candidacy.

Primary Election; Time, Etc.:

Section 7-4. Unless otherwise provided by ordinance, a primary election shall be held on the first Tuesday in March of every odd-numbered year to nominate candidates for mayor and councilmen to succeed those whose terms are expiring. A primary election shall be held on the first Tuesday in March of every even-

numbered year to nominate candidates for councilmen to succeed those whose terms are expiring. If only one person is a candidate for an office to be filled, he shall be not only nominated, but also elected ipso facto; and his name shall not appear on the primary or general election ballot. Every qualified elector of the city shall be entitled to vote for one candidate for mayor, and every qualified elector of a ward shall be entitled to vote for one candidate for councilman from his ward. (Res. 408, (Exh. 1), 2005)

Primary Election; Who Nominated Or Elected:

Section 7-5. In a primary election, the two candidates for each office to be filled receiving the greatest number of votes for that office, shall be nominated. If one of the candidates for an office receives a majority of all votes cast for all candidates for that office, he alone shall be not only nominated, but also elected ipso facto; and his name shall not appear on the ballot for the general election. In case of a tie, the nominee or nominees (as the case may be) shall be determined from among those tying, fairly by lot, by the canvassing authority in a public meeting. If one of the two candidates for an office nominated in a primary election dies or withdraws before the general election, the remaining candidate shall be elected ipso facto; and his name need not appear on the ballot for the general election.

General Election; Time, When Not Held, Who Elected:

Section 7-6. Unless otherwise provided by ordinance, a general election shall be held in the city on the first Tuesday in April of every odd-numbered year to elect the mayor and councilmen to succeed those whose terms are expiring. A general election shall be held in the city on the first Tuesday in April of every even-numbered year to elect councilmen to succeed those whose terms are expiring. If no candidates remain to be voted on and there are no questions to be voted on, then there shall be no general election. Every qualified elector of the city shall be entitled to vote for one of the two candidates for mayor, and every qualified elector of a ward shall be entitled to vote for one of the two candidates for councilman from his ward. The candidate for each office receiving the greater number of votes, shall be elected. In case of a tie, the election shall be determined, fairly by lot, by the canvassing authority in a public meeting. (Res. 408, (Exh. 1), 2005)

Registered Qualified Electors:

Section 7-7. Only electors residing in this city who have the qualifications prescribed for electors by the state constitution and law, and who are registered as required by law, may vote in city elections.

City To Conduct Its Own Elections; Exception; At Least One Voting Precinct, Or District, In Each Ward:

Section 7-8. The city shall conduct its own elections, regular and special. Except as the council provides otherwise by ordinance, the city clerk shall make preparations for city elections, shall appoint personnel to conduct the elections, and shall have charge of and administer elections. In case a state, county, or other public elections falls or is called on the same day as a city election, or vice versa, nothing in this charter shall prohibit the election authorities who hold such an election from holding the city election also. There shall be at least one voting precinct, or district, in each ward.

Canvassing Returns; Certificates:

Section 7-9. The council shall promptly canvass the returns of all city elections, including special elections, and ascertain the results thereof; provided that the council may delegate this function to a board created by ordinance. The city clerk shall promptly prepare, sign and issue certificates of election, sealed with the seal of the city, to all persons elected to office.

Council May Regulate Elections; State Law:

Section 7-10. The council by ordinance may further regulate elections. The provisions of state law applicable to city elections shall govern city elections insofar as they are applicable and are not superseded by this charter or by ordinance.

ARTICLE 8.

RECALL

Recall Authorized:

Section 8-1. The incumbent of any elective city office, including a person appointed to fill a vacancy in any such office, may be recalled from office by the electors qualified to vote for the election of a successor to the incumbent, in the manner provided herein.

Recall Petition:

Section 8-2.

(1) To initiate recall proceedings, a written statement in duplicate proposing the recall of the incumbent of an elective office, shall be made by at least twenty registered qualified electors of the city or ward concerned, as the case may be, and shall be filed with the city clerk after the incumbent has held the office at least four months. The statement shall also contain the reason or reasons for which the recall is sought, in not more than two hundred words. The city clerk shall within five (5) working days after submission of recall petition examine it and ascertain it as to whether it has been prepared as required. For purpose of counting words, all words below "Statement of Recall" shall be counted. Within five days, the city clerk shall mail a copy of such statement by registered, certified or similar special mail to the officer at his residential address. Within ten days after the statement is mailed to the officer, the officer may make and file with the city clerk a written statement in duplicate justifying his conduct in office, in not more than two hundred words; and the city clerk on request shall deliver one copy to one of the persons filing the statement proposing the recall. (amd. Res. 370, 1-8-2002)

(2) The petition for recall shall include a demand that a successor to the incumbent sought to be recalled be elected, and shall also include before the space where the signatures are to be written the statement giving the reason or reasons for recall under the heading "STATEMENT FOR RECALL", and if the officer has filed a statement as authorized, the statement justifying his conduct in office under the heading "STATEMENT AGAINST RECALL". The two statements shall be in letters of the same size. A copy of the petition shall be filed

with the city clerk within one month after recall proceedings are initiated by the filing of the first statement, and before the petition is circulated.

(3) A number of registered qualified electors of the city or ward concerned equal at least to twenty percent (20%) of the total number of votes cast for governor in the city or ward at the last general state election at which a governor was elected, must sign the petition. Each signer shall write after his name his address within the city, giving street or avenue and number, if any. Not more than one hundred signatures may appear on a single copy of the petition. Only registered qualified electors of the city or ward concerned may circulate the petition. The person circulating a copy of the petition shall sign an affidavit on the copy stating that each signer signed the petition in his presence, that each signature on the petition is genuine, and that he believes each signer to be a registered qualified elector of the city or ward concerned.

(4) The circulated petition shall be filed with the city clerk not later than one month after the filing of a copy as provided above. Within one month after date of filing of the circulated petition, the city clerk shall examine it and ascertain whether it has been prepared and circulated as required, and whether the required number of registered qualified electors of the city or ward concerned have signed it. He shall then attach his certificate to the petition. If his certificate states that the petition has not been prepared and circulated as required and/or lacks a sufficient number of signatures, the petition shall have no effect. But, if the city clerk's certificate states that the petition has been prepared and circulated as required and has a sufficient number of signatures, he shall submit the petition and certificate to the council at its next meeting. The decision of the city clerk shall be subject to judicial review.

Recall Election; Council To Order:

Section 8-3. The Council, by resolution or ordinance passed within ten days after receiving the petition and certificate of the city clerk, shall order and fix the date for recall election, which shall be held not less than sixty days, nor more than ninety days, after passage of a resolution or ordinance; and

A. When signed copies of a petition are timely filed with the clerk, the clerk shall make a physical count of the number signatures appearing on the petitions. The Clerk shall then publish, in at least one (1) newspaper of general circulation in the municipality, a notice of the filing and the apparent sufficiency or insufficiency of the petition. The notice shall also state that any qualified elector of the municipality may file a protest to the petition or an objection to the count made by the clerk.

B. A protest to the petition or the count of signatures shall be filed in the district court of the county in which the situs of the municipality is located within ten (10) days after publication. Written notice of the protest shall be served on the clerk and the parties who filed the petition. In the case of the filing of an objection to the count, notice shall be served on any party filing a protest. The district court shall fix a day, not less than ten (10) days after the filing of a protest, to hear testimony and arguments for and against the sufficiency of the petition. A protest filed by anyone, if abandoned by the party filing it, may be revived within five (5) days by any other qualified elector. After the hearing, the district court shall decide whether such petition is in form required by law. (amd. Res. 370, 1-8-2002)

If the officer sought to be recalled resigns before the council passes the resolution or ordinance, recall

proceedings shall terminate, and no election shall be held. The qualified electors may vote in a recall election on the election of successors to more than one incumbent of an elective office on the same day.

Recall Election; How Held:

Section 8-4. The recall election shall be an election to fill the office held by the incumbent sought to be recalled. Any qualified person, including the incumbent, may file as a candidate for the office. There shall be no primary before the recall election, and the candidate receiving the greatest number of votes in the recall election shall be elected. If a candidate other than the incumbent is elected, the incumbent shall be recalled from office effective as of the time when the result of the election is certified. The said successful candidate must qualify within one month thereafter; and if he fails to do so, the office shall be vacant, and the council shall fill the vacancy. A candidate thus elected and qualifying shall serve for the unexpired term. If the incumbent is a candidate and receives the greatest number of votes, he shall continue in office without interruption; and recall proceedings may not again be initiated against him within one year after the election.

The provision of this charter relating to elections shall also govern recall elections insofar as they are applicable and are not superseded by the provisions of this article.

Person Recalled Or Resigning:

Section 8-5. No person who has been recalled from an office, or who has resigned from such office while recall proceedings were pending against him, may hold any office or position of employment in the city government within two years after his recall or resignation.

ARTICLE 9.

CHARTER; AMENDMENT AND SEPARABILITY

Amendment; Proposal Ratification, Approval:

Section 9-1. This charter may be amended by proposals therefor submitted by the council, or by the mayor upon initiative petition of the people as provided by the state constitution, at a general or special election, ratified by a majority of the qualified electors voting thereon, and approved by the governor as provided by the state constitution. If more than one amendment are proposed, all of them except those which are so interrelated that they should be ratified or rejected together, shall be submitted in such manner that the electors may vote on them separately. A proposition to amend this charter may be either in the form of a proposed amendment to a part or parts of the charter or of a proposed new charter.

Separability Clause:

Section 9-2. If a court of competent jurisdiction should hold any section or part of this charter invalid, such holding shall not affect the remainder of this charter nor the context in which such section or part so held invalid may appear, except to the extent that an entire section or part may be inseparably connected in meaning and effect with that section or part.

If a court of competent jurisdiction holds a part of this charter invalid, or if a change in the state constitution or law renders a part of this charter invalid or inapplicable, the council by ordinance may take such appropriate action as will enable the city government to function properly.

ARTICLE 10.

SUCCESSION IN GOVERNMENT

When Charter Goes Into Effect:

Section 10-1. If a majority of the qualified electors of the city voting on the question vote to ratify this charter, this charter shall go into effect upon approval by the governor as provided by the state constitution; and the government provided by this charter at that time shall replace the government heretofore existing in this city under state law.

Officers And Employees To Continue; Compensation Of Mayor And Councilmen:

Section 10-2. When this charter goes into effect, the mayor, the councilmen, the city clerk, the city treasurer, the chief of police, the fire chief, and all other officers and employees under the statutory government (including members of boards and commissions), shall continue in their respective offices and positions of employment under this charter until their respective terms expire or until their services are terminated in accordance with the provisions of this charter and ordinances relating to the creation, change and abolition of offices and removal of officers and employees, as the case may be.

Notwithstanding any other provisions of this charter, the mayor and councilmen shall continue to receive compensation at the same rate after this charter goes into effect and until the first Monday in May 1963.

Ordinances Continued:

Section 10-3. All ordinances, insofar as they are not inconsistent with this charter, shall continue in effect until they are repealed or until they expire by their own limitations.

Pending Actions And Proceedings:

Section 10-4. The adoption of this charter shall not abate or otherwise affect any action or proceeding, civil or criminal, pending when it takes of feet, brought by or against the municipality or any office, department, agency or officer thereof.

[Footnote 1:](#) For statutory provisions authorizing a city to adopt a charter government, see 11 OS § 13-101 (West 1994).

